

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:14-00244

DONALD L. BLANKENSHIP

**UNITED STATES' MOTION FOR USE OF JUROR QUESTIONNAIRE
AND EXPANDED JURY SELECTION PROCESS**

Comes now the United States of America and files this motion for use of a juror questionnaire and expanded jury selection process in the above-styled case. As the court is aware, Defendant filed a Motion for Transfer to Another District for Trial (ECF 121), to which the United States responded and opposed (ECF 160). Both the United States and Defendant cited *Skilling v. United States*, 561 U.S. 358 (2010), in support of their respective positions. As this court is also aware, the court in *Skilling* did not transfer the trial in that case. Instead, that court employed an expanded jury selection process to ensure a fair trial for the defendant while also protecting the constitutional interest in vicinage. In light of *Skilling*, the United States moves this court similarly to use an expanded jury selection process in this case, as follows:

1. To summon 300 potential jurors on a specific date to complete a juror questionnaire. If, for example, the court should deem it necessary to move the trial from the Beckley Division, the trial could be moved to the Charleston Division and jurors summoned from both the Charleston and Huntington Divisions;¹

¹ In its Response, the United States noted that this would permit a jury to be selected from an area with a population of approximately 738,000.

2. Within two days following the completion of the questionnaires, the Clerk of the court could make available digital copies of the executed questionnaires to both parties;
3. After an appropriate period of review (approximately two weeks), counsel could then inform the court of those potential jurors they mutually recommend be dismissed for cause;
4. The Clerk could then send each potential juror notice advising them of their report date and time for individual voir dire; and
5. Potential jurors would report on the appointed date to begin voir dire. The next business day after a panel of a select number of potential jurors is passed for cause, those potential jurors would be instructed to return to the courthouse and the parties would at that time exercise their peremptory challenges. Upon completion and selection of the jury, the trial would proceed with opening statements.

A proposed questionnaire is attached to this motion as Exhibit A. The United States submits that the use of the questionnaire and the above-described jury selection procedure would obviate any claimed need for a transfer of the trial out of this district and would guarantee the seating of an impartial jury.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing “United States’ Motion for Use of Juror Questionnaire and Expanded Jury Selection Process” has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing this 20th day of March, 2015 to:

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